

# CORRECTIONS IMPACT STATEMENT

SESSION: 18RS

BILL #: HB 494 Introduced

BR #: 1998

DOC ID#: BR199800.100 - 1998 - XXXX

**BILL SPONSOR(S):** Rep. D. Elliot      **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to the protection of Kentucky's adults.

**SUMMARY OF LEGISLATION:** Amend KRS 381.230 to establish a simplified method for elderly or vulnerable adults to petition for an order to prevent or restrain other persons from trespassing onto the petitioner's residence; create a new section of KRS Chapter 209 to clarify abuse of an adult and establish penalties; clarify exploitation of an adult and establish penalties; clarify neglect of an adult and establish penalties; amend KRS 209.990 to delete existing penalties for abuse, exploitation, and neglect; amend KRS 209.020 to define terms; create a new section of KRS Chapter 209 to create a rebuttable presumption that transfers of real or personal property made by protected adults and not supported by adequate consideration were made under undue influence.

This  bill  amendment  committee substitute is expected to:

Have the following Corrections impact       Have no Corrections impact

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Creates new crime(s)                              | <input type="checkbox"/> Repeals existing crime(s)               |
| <input type="checkbox"/> Increases penalty for existing crime(s)                      | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration                                      | <input type="checkbox"/> Decreases incarceration                 |
| <input type="checkbox"/> Reduces inmate/offender services                             | <input type="checkbox"/> Increases inmate/offender services      |
| <input type="checkbox"/> Increases staff time or positions                            | <input type="checkbox"/> Reduces staff time or positions         |
| <input checked="" type="checkbox"/> Changes elements of offense for existing crime(s) |  |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) _____              |  |

**STATE IMPACT:** Class A, B & C felonies are based on an average daily prison rate of \$70.12. Most Class D felons are housed in one of 76 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$31.45 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

**Projected Impact:**       NONE       MODERATE (< \$1 million)       SIGNIFICANT (> \$1 million)

HB 494 provides protection against trespassing for individuals ages fifty-five (55) or older or a vulnerable adult defined in 209.020 due to mental or physical dysfunctioning. Section 5 of the legislation discusses transfer of real estate and property, along with civil actions.

A new crime of Abuse of an Adult is established when an offender 1) causes physical injury to an adult, 2) causes mental injury to an adult, 3) commits sexual abuse of an adult, or 4) causes unreasonable confinement, intimidation, or punishment of an adult.

Abuse of an Adult is a Class C when committed knowingly, a Class D when committed wantonly, and a Class A misdemeanor when committed recklessly.

A new crime of Exploitation of an Adult is established when an offender by deception or intimidation 1) obtains or uses an adults resources (ex: funds, assets, or property) and 2) intends to deprive the adult of those resources.

Exploitation of an Adult shall be a Class C felony when it is committed knowingly, resulting in a total loss of resources of more than \$300. Exploitation of an Adult shall be a Class D felony when committed wantonly or recklessly, resulting in a total loss of resources of more than \$300.

Exploitation of an Adult shall be a Class A misdemeanor when it is committed knowingly, wantonly, or recklessly, resulting in a total loss of resources of \$300 or less.

A new crime of Neglect of an Adult is established when an offender 1) deprives an adult of goods, services, care or treatment necessary to maintaining health or welfare, or 2) causes or allows someone else to deprive an adult.

Neglect of an Adult shall be a Class C felony when it is committed knowingly, a Class D felony when committed wantonly, and a Class A misdemeanor when committed recklessly.

Current penalties under KRS 209.990 are deleted.

AOC records reflect thirty-nine (39) convictions from Circuit Court and thirty-four (34) convictions from District Court under KRS 209.990 in FY 2017.

Currently the Department shows sixty-three (63) offenders incarcerated with an additional 279 offenders on supervision for convictions under KRS 209.990. Of the offenses under KRS 209.990, 217 offenders have Class C felony convictions (fifty-six (56) of whom are inmates), 128 have Class D felony level convictions (thirteen of whom are inmates), and ten (10) have misdemeanor convictions. Note: offenders may be convicted of multiple offenses.

It is not known how many additional offenders would be incurred under this legislation, however, the overall impact to incarceration is not expected to be significant.

A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$114,808 to \$574,040
1 Class D Felon costs KY \$11,481 to \$57,404	100 Class D Felons cost KY \$1.1M to \$5.7M
A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1.3M to \$2.6M
1 Class C Felon costs KY \$127,972 to \$255,944	100 Class C Felons cost KY \$12.8M to \$25.6M

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. While the expense varies by jail, this estimated impact will be based on \$31.34 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

**Projected Impact:**  NONE  MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

Under this legislation, misdemeanor offenders would be subject to county costs.

Class D offenders would be eligible for housing at the local detention center at a cost of \$31.34 to the state.

Class C offenders may be eligible to be housed at a county jail or may be housed at a state prison facility at a cost of \$70.12 per day. To be eligible for community custody, Class C offenders would have to be classified at the lowest custody level with eighteen (18) months or less to expiration or parole eligibility. However, offenders with the type of conviction as included in this bill may not meet the classification requirements for community custody.

Housing state inmates in county jails provides an opportunity for jails in additional revenue through state inmate per diem, however, any additional incarcerated offenders impacts local jail capacity.

Overall, it is not known how many additional offenders would be incurred under this legislation.

A Class A misdemeanor is 90 days to 1 year in jail	10 Class A misdemeanants: \$28,206 to \$114,391
1 Class A misdemeanant: \$2,821 to \$11,439	100 Class A misdemeanants: \$282,060 to \$1,143,910

**The following offices contributed to this Corrections Impact Statement:**

Dept. of Corrections  Dept. of Kentucky State Police  Administrative Office of the Courts  Parole Board  Other

**NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population or that impose new obligations on state or local governments. The Department of Corrections and local jails continue to operate over capacity. Without steps to reduce the population, any legislation that increases population or lengthens the term of incarceration will have a significant impact on correctional operations.**

**APPROVED BY:**  **3/7/2018**  
Commissioner, Kentucky Department of Corrections Date